



# Journal of the House

State of Indiana

113th General Assembly

Second Regular Session

Eleventh Meeting Day

Thursday Afternoon

January 15, 2004

The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Reverend Alan Reed, First Church of God, Bedford, the guest of Representative Eric A. Koch.

The Pledge of Allegiance to the Flag was led by Representative Koch.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning	J. Lutz
Bischoff	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	Mays
C. Brown	McClain
T. Brown	Messer
Buck	Moses
Budak	Murphy ...
Buell	Neese
Burton	Noe
Cheney	Orentlicher
Cherry	Oxley
Chowning	Pelath
Cochran	Pflum
Crawford	Pierce
Crooks	Pond
Day	Porter
Denbo	Reske
Dickinson ...	Richardson
Dobis	Ripley
Duncan	Robertson
Dvorak	Ruppel
Espich	Saunders
Foley	Scholer
Frenz	V. Smith
Friend ...	Stevenson
Frizzell	Stilwell
Fry	Stutzman
GiaQuinta	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner
Hasler	Ulmer ...
Heim	Van Haaften
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young
Klinker	Yount
Koch	Mr. Speaker

Roll Call 21: 96 present; 4 excused. The Speaker announced a quorum in attendance. [NOTE: ... indicates those who were excused.]

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the following motion:

"I move that Senator Lanane be appointed to replace Senator Simpson on the committee to wait upon the Chief Justice and to escort him to the Chambers of the House of Representatives to deliver his message to the General Assembly on January 15, 2004."

MARY C. MENDEL  
Principal Secretary of the Senate

## COMMITTEE REPORT

Mr. Speaker: Your Committee, appointed to transmit to the Senate a resolution of this House to convene a joint convention of the two houses to receive the Chief Justice's message, hereby reports that it has discharged the duty assigned to it and that the Senate has concurred in the House resolution and will meet the House in joint convention in the Chambers of the House of Representatives, at 1:30 p.m. on January 15, 2004, for the purpose of receiving the Chief Justice's message.

L. LAWSON  
DVORAK

FOLEY  
D. YOUNG

Report adopted.

## HOUSE MOTION

Mr. Speaker: I move that House Bill 1016 be withdrawn.

ORENTLICHER

Motion prevailed.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 1:45 p.m. with the Speaker in the Chair.

The Speaker introduced the honored guests as follows: Amy MacDonell-Shepard, wife of Chief Justice Randall Shepard; Mattie Shepard, daughter of Chief Justice Randall Shepard; First Lady Maggie Kernan, wife of Governor Joseph Kernan; Judy O'Bannon, wife of Governor O'Bannon; Jan Aikman Dickson, wife of Justice Brent Dickson; Cheryl Sullivan, wife of Justice Frank Sullivan, Jr. Dr. Denise Rucker, wife of Justice Robert Rucker; Auditor of State Connie Nass; Secretary of State Todd Rokita; Treasurer of State Tim Berry; Attorney General Steve Carter; Clerk of the Supreme and Appellate Courts David Lewis; Sherrill Colvin, President of the Indiana State Bar Association; John Kautzman, President-elect of the Indianapolis Bar Association; Myra Selby, former Supreme Court Justice; Richard M. Givan, former Chief Justice of the Indiana Supreme Court; Donald Ward, John Bartlett, and John Fightner, members of the Indiana Judicial Nominating Commission; former Governor Robert D. Orr and his wife Mary Kay; and Governor Joseph E. Kernan.

The Speaker yielded the gavel to Lieutenant Governor Katherine L. Davis, President of the Senate, who called the joint session to order and presented the Chief Justice as follows:

"Members of the Joint Assembly: Pursuant to Section 3 of Article 7 of the Constitution of the State of Indiana, this joint session of the two houses of the Indiana General Assembly is now convened

for the purpose of hearing a message from the Chief Justice of the Supreme Court of the State of Indiana.

It is my privilege to present to you the distinguished Chief Justice of the Supreme Court, the Honorable Randall T. Shepard.”

Chief Justice Shepard was escorted to the rostrum by Representatives Dvorak, L. Lawson, Foley, and D. Young and Senators Long, Bray, Bowser, and Lanane.

Chief Justice Shepard introduced Chief Judge Sanford Brook, who is retiring soon and moving out-of-state. The Chief Justice saluted Judge Brook’s many years of distinguished service on the Court of Appeals.

### **State of the Judiciary A Difficult Year that Prompted Reflection**

Governor Kernan and Members of the General Assembly:

We usually carry with us for the rest of our lives the memory of where we were when we first learned of certain shocking events – the death of President Kennedy, or September 11th, or the news about Governor Frank O’Bannon. Beyond the immediate trauma, such moments also cause us to reassess our own lives and careers. Actually, many people ask themselves questions like this from time to time anyway – certainly people in public life do. Is what I am doing worthwhile? Am I doing everything I could do for my fellow human beings? In the course of thinking about such questions, we usually learn more about our relationships with each other, and we see more clearly the path that lies ahead.

Since September, I’ve spent more time thinking about what it is that Indiana’s judges do for people, and whether we’re doing well enough at helping to improve the lives people live in Indiana.

And certainly, judges are involved in the lives of citizens on thousands of occasions each day. As we begin 2004, we’re about to pass a remarkable milestone. This year for the very first time the number of new cases filed in Indiana’s courts will exceed two million. That’s 8,000 new cases a day, or five hundred in the time it takes me to give this speech. In short, judges see more people up close and personal than any other institution in Indiana government except maybe the public schools. My report today focuses on what we do for them, and how we are trying to do better.

### **We See Families**

A huge number of people come to court because there is trouble in the family: a disintegrating marriage, domestic abuse, custody and child support disputes, children in need of services, and delinquency. You’ll remember that the legislature asked for an interim study on the idea of family courts, and I proposed that we do some experiments trying new techniques to deploy the resources of courts and social agencies in a more coherent way. Under the leadership of Court of Appeals Judge Margret Robb, last month we extended this “Family Courts Initiative” to seven new counties so that some seventeen counties as varied as Lake, Lawrence, and Tippecanoe are now applying these techniques.

Of course, while the courts are the place where family lawsuits are filed, old-fashioned litigation is not usually the best way to resolve a family dispute. We’ve worked hard at promoting mediation in Indiana, but the problem with family cases is that even mediation costs some money and most people don’t have it. Last year, after a successful demonstrations project in Allen County, led by Judges Tom Ryan and Tom Felts, we asked you for the tools to make family mediation available statewide, and you passed that legislation by unanimous votes in both houses. I’m glad to report that just six months since the effective date of that legislation we are prepared to offer family mediation in counties with a total population of over 1.5 million, and we will stage workshops this spring to help other counties do the same.

To be effective at helping families in trouble, judges have to be alert to changes in the way people live and bring up their children. There are a lot more “blended families” these days, and a child

support system that doesn’t recognize that won’t work very well. Our Domestic Relations Committee, led by Judge Dan Donohue of Clark County, devised a way that fairly takes multiple family obligations into account. Last year they worked on responding to another change in the American family – the growing use of real shared parenting after divorce. That change, of course, is good news. It’s the policy of this state that both parents should participate in the lives of their children, and the child support system needs to support that policy. Our committee has developed changes to Indiana’s child support guidelines that I think do that and those changes became effective this month.

For all the talk about divorce and distress, there is hope for the American family. The number of children living with two parents has been declining for forty years, but last year it went up. Part of what judges try to do is act in ways that help make such statistics possible.

### **We Meet People Who Cannot Speak English**

We took time last year to assess how we treat Indiana’s new immigrants, the largest group of which is Hispanic. Not even the Census Bureau is really sure just how many people of Latino descent there are in Indiana, but it is certainly a third of a million. Like other people, they find their way to Indiana’s hundred or so courthouses, and once there, they sometimes find themselves feeling just like we’d feel if we were in a new country and could not speak the language. Think of how we’d feel if our home or custody of our children was at stake or if we were at risk of going to jail, and we could barely understand what was being said to us. And let’s say there wasn’t anybody there to translate, or that the person who was trying to translate wasn’t very good at it.

The Supreme Court’s Commission on Race and Gender Fairness, chaired by former Justice Myra Selby and Court of Appeals Judge Zeke Friedlander, proposed a system to help people who face this language barrier, and we asked you to give us a down payment on putting that system in place, and you did. And as it happens, the first group of people who hope to be certified interpreters is here in Indianapolis as a part of the testing process, and we’ll soon make the first grants to Indiana counties to put those interpreters at work where people need them. These new immigrants are going to turn out to be good Hoosiers, and we need to help them get there.

### **We Find People Without Lawyers**

I’ve also been thinking about how complicated the government and its court system can look to people. Try as we do to make it otherwise, it all gets more complicated every year. You pass more laws, we issue more decisions, the executive branch writes more regulations. And the average citizen finds it harder to navigate the system without legal help. A good many people among the working poor are just a little too well off for standard legal aid and not really able to afford market rate legal help.

Judges and lawyers worry about people like that, and there are many ways we’ve tried to give them access to justice. Indiana lawyers have always lent a hand pro bono to some people who simply showed up at the office door. In the 1960s, the federal government began financing legal services offices. Indiana was one of the first states to commit state money to support these local offices. More recently, most states have used interest generated by lawyer trust accounts to expand the number of lawyers in legal services offices.

On this point, Indiana took a different approach. Had we used that trust account money simply to employ full-time lawyers, we could have hired perhaps ten lawyers, spread across a state of six million. Instead, we used it to build a statewide network of volunteer lawyers led at the local level by judges. By last year, with the help of our partners in the State Bar Association and its Foundation we had doubled the number of lawyers volunteering to help needy people, so that there are nearly 3,000 lawyers covering every county in the state. People all over the country who are concerned about equal justice talk of this system in admiring terms as the “Indiana plan”. I say we have good cause to be proud of what has happened here on access to justice.

And speaking of access, you'll remember that this legislature made Indiana the first state to start its own program to expand the number of minority lawyers. We're about to receive applications for the eighth class of Indiana CLEO. This is paying off in visible ways. One day last year I looked out in the courtroom during oral argument at our law clerks and saw something I hadn't noticed before – that six of the eleven law clerks in the Indiana Supreme Court were black or Hispanic and that four of those six were people who had come up through CLEO. I think it's something that has never happened in any other American appellate court, and it says something very good about Indiana as a place of equal opportunity.

### **We Encounter People Who Are Out of Work**

A good many of the people judges see in court each day are actually in legal difficulty because they are unemployed or underemployed. And while the task of building Indiana's job base is in the hands of the legislative and executive branches, we spent time last year reflecting on what we can do within our own sphere of responsibility to support that effort.

One thing Indiana needs to be is a place where employers that are thinking about locating here can bring with them the lawyers they usually use to put those kinds of economic development deals together. We adopted new rules, effective two weeks ago, that make it easier for companies locating in Indiana to bring with them in-house legal talent. For that matter, it will help Indiana's existing employers, many of which have installations in multiple states, to move legal talent around as their commercial needs dictate.

We are also working to accomplish the same thing on an international basis. Indiana was the first state to adopt the new uniform rule on what are called "foreign legal consultants," lawyers licensed in other countries who can now obtain an Indiana license to advise Indiana companies on the law of China or Spain, to make it easier to export Indiana goods. And last year, this decision by our Court caught the attention of the United States Trade Representative, a member of the President's cabinet, who negotiates commercial treaties with other nations. The Trade Representative asked whether we would consent to have Indiana's rule tendered to the nations with which America is presently negotiating. Of course we agreed, because we believe it's in Indiana's interest if foreign countries reciprocate and thus make it easier for Indiana lawyers to work abroad on deals for exporting Hoosier products.

### **We Choose Who to Send to Jail**

Finally, we've been re-thinking our role in public safety. Among the most sobering things judges do is deciding what the punishment should be in criminal cases, some 264,000 times last year some Indiana judges were called upon to decide a penalty -- ranging all the way from a dollar and costs to death by lethal injection. Deciding where each defendant fits along that continuum is one of the most important things we do for our fellow citizens. Two cases from last year still stick in my mind.

One was a child molesting case involving a defendant who worked for the school. He began dating a woman who came to him for advice about her son, and he eventually became sexually involved with her eleven-year-old son. Child molesting is a class A felony, for which the standard sentence under the Indiana Code is thirty years. After he was found guilty, the mother and the son said to the court, "We want him to pay for what he has done," but "if he gets the minimum, that is fine with us." The minimum was twenty years. For reasons I won't take the time to detail, the sentence imposed was 385 years. One of the questions on appeal was whether this sentence was excessive. We decided it was and revised it to 90 years, which even with good time, given the age of the defendant, might turn out to be life in prison. More than 90 years, we thought, did not add anything to punishment for him or deterrence of others.

The other case that sticks in my mind was a case in which the maximum sentence was exactly the right thing. It is a chilling story. Two white guys are hanging around when one of them says, "Do you know what those black spider tattoos are all about?" Yes, came the reply, you get that tattoo when you kill a black person. "I'd really like

to get one of those," says the first fellow. They go off to get a rifle and start out in their car looking for a target. They come upon a young African-American man walking across the parking lot at Sears, and the guy who wants the tattoo puts ten shots in him for no more reason than that.

Judge Stephen Platt imposed the maximum. There were a number of reasons, but one was a reason we had never encountered before on appeal – and that the racial animus that motivated the crime qualified under the Indiana Code as an aggravating circumstance enhancing the sentence. Judge Sharpnack and his colleagues on the Court of Appeals agreed that this was a maximum sentence case. Our court said, "That's right." Every Indiana judge who heard that case said what I suspect other officeholders and Hoosiers more generally would say, that a perpetrator who commits such a crime earns the maximum sentence.

We are a state with a tough approach to crime, but we are also a state, as U.S. Supreme Court Justice Potter Stewart said of Indiana some forty years ago, that has pursued "conspicuously enlightened policy." One of the toughest aspects of the policy is to figure out, as best human beings can do, which defendants can safely be put on suspended sentences, which ones need regular supervision, which ones need the tight supervision of work release or a drug court, and which need a prison bed at the Department of Correction, our costliest alternative.

The easy penalty, of course, is incarceration, but your creation of the Sentencing Policy Study Committee last year, chaired by Senator David Long, through a bill sponsored by Representative William Crawford, is a renewed indication that Indiana is willing to put these policies under the microscope once again and devise the smartest sentencing arrangements we can to protect the public. I think that judges can contribute to that dialogue, and I thank you for including us on this new committee, and I pledge that we will put forth substantial ideas for reforms to Indiana's system of sentencing.

### **The Need for a New Compensation Plan**

Reforms like this depend in large measure on the willingness of able people to lead state government. We need to keep good people in the legislature, on the bench, and in the executive branch. We lost prominent people in all three branches last year largely on the basis of money. And that's because we don't have any regular mechanism for making cost-of-living adjustments for the state's principal officers as we do for most public employees. There are years when the compensation of everyone in government stands still because there simply is no money, and other years like this one, when there's \$90 million in the budget to pay cost-of-living adjustments for everyone from troopers to caseworkers. It is clear to me that the only way to change that is a compensation commission of the sort that states like Missouri and Illinois and Georgia and others employ. I urge you to move us in that direction, towards a new system that assigns these decisions to a commission operating under strict statutory guidelines about when cost-of-living adjustments should be made.

Indiana needs a system that makes it easier for good people to stay. In short, one thing that Indiana needs for its future is a state government that is well led in all three branches.

### **Conclusion**

The tragedy we all experienced at Frank O'Bannon's death was relieved in small part by the celebration of the meaning of a life well lived in the service of others. And the lesson for us is that we must live our own lives, to paraphrase a famous Hoosier, so that Indiana might have a new birth of freedom and that government of the people will carry on.

And that, ladies and gentlemen, is the state of your judiciary.

The President of the Senate adjourned the joint session.

The House reconvened at 2:20 p.m. with the Speaker in the Chair.

The National Anthem was sung by Corby York of Elwood.

## INTRODUCTION OF BILLS

The following bills were read a first time by title and referred to the respective committees:

- HB 1009** — Cheney, Goodin (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1060** — Dobis (Rules and Legislative Procedures)  
A BILL FOR AN ACT to repeal a provision of the Indiana Code concerning daylight saving time.
- HB 1072** — Bischoff (Interstate and International Cooperation)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1076** — Torr (Rules and Legislative Procedures)  
A BILL FOR AN ACT to repeal a provision of the Indiana Code concerning daylight saving time.
- HB 1096** — Pierce (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning property.
- HB 1098** — Welch, L. Lawson, T. Brown (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.
- HB 1155** — Kuzman, Dobis (Rules and Legislative Procedures)  
A BILL FOR AN ACT to repeal certain provisions of the Indiana Code concerning local government.
- HB 1168** — V. Smith (Public Policy, Ethics and Veterans Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1173** — Denbo (Withdrawn)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1182** — J. Lutz (Rules and Legislative Procedures)  
A BILL FOR AN ACT to repeal a provision of the Indiana Code concerning daylight saving time.
- HB 1183** — J. Lutz (Elections and Apportionment)  
A BILL FOR AN ACT to amend the Indiana Code concerning elections.
- HB 1202** — L. Lawson (Public Health)  
A BILL FOR AN ACT to amend the Indiana Code concerning health.
- HB 1217** — Duncan (Public Policy, Ethics and Veterans Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning gaming.
- HB 1218** — Summers (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1219** — Summers, Porter, T. Adams (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1220** — D. Young (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1221** — D. Young (Insurance, Corporations and Small Business)  
A BILL FOR AN ACT to amend the Indiana Code concerning insurance.
- HB 1222** — Gutwein, Stutzman, Chowning (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1223** — T. Adams, Austin, Reske (Public Policy, Ethics and Veterans Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning public safety.
- HB 1224** — Chowning (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.
- HB 1225** — Porter (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1226** — Behning (Insurance, Corporations and Small Business)  
A BILL FOR AN ACT to amend the Indiana Code concerning insurance.
- HB 1227** — Behning (Withdrawn)  
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.
- HB 1228** — Bardon (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1231** — J. Lutz (Environmental Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1232** — V. Smith, Budak (Labor and Employment)  
A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.
- HB 1233** — V. Smith (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1234** — Bauer, Porter (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education finance and to make an appropriation.
- HB 1235** — T. Brown, Denbo (Insurance, Corporations and Small Business)  
A BILL FOR AN ACT to amend the Indiana Code concerning insurance.
- HB 1236** — Moses, GiaQuinta (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1237** — Moses, Stevenson (Commerce and Economic Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.
- HB 1238** — Denbo, Crawford, Alderman, Hinkle (Technology, Research and Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1239** — Cherry, Frenz, Reske, Saunders (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1240** — Cherry, Welch, Crooks, McClain (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1241** — Cherry, T. Adams (Public Policy, Ethics and Veterans Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.
- HB 1242** — Friend, Klinker, Mangus (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

- HB 1243** — Ripley (Roads and Transportation)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1244** — Mangus, Grubb (Agriculture, Natural Resources and Rural Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.
- HB 1245** — Van Haaften (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1246** — Oxley (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1247** — Oxley (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1248** — Oxley (Appointments and Claims)  
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.
- HB 1249** — Cheney (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning pensions.
- HB 1252** — Ruppel (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.
- HB 1253** — Robertson, Goodin (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1255** — Robertson (Environmental Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1256** — Robertson (Roads and Transportation)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1257** — Robertson (Labor and Employment)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1258** — Richardson, Austin (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.
- HB 1259** — Moses (Insurance, Corporations and Small Business)  
A BILL FOR AN ACT to amend the Indiana Code concerning insurance.
- HB 1260** — Grubb, D. Young, Behning, Kersey (Appointments and Claims)  
A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations and consumer sales and credit.
- HB 1261** — Murphy, Grubb (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1263** — Frizzell (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1264** — Dvorak, Kuzman (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1265** — Kersey (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning health.
- HB 1266** — Ayres, Hasler, Thomas, Austin (Technology, Research and Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.
- HB 1267** — Hoffman, Pflum (Agriculture, Natural Resources and Rural Development)  
A BILL FOR AN ACT concerning natural and cultural resources.
- HB 1268** — Orentlicher, Bardon, Budak, Hinkle (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning human services.
- HB 1270** — Liggett (Labor and Employment)  
A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.
- HB 1271** — Liggett (Labor and Employment)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.
- HB 1272** — Lytle (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1273** — Fry (Insurance, Corporations and Small Business)  
A BILL FOR AN ACT to amend the Indiana Code concerning insurance and to make an appropriation.
- HB 1274** — T. Adams (Public Policy, Ethics and Veterans Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning gaming and to make an appropriation.
- HB 1275** — Dvorak (Appointments and Claims)  
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.
- HB 1276** — Bottorff (Agriculture, Natural Resources and Rural Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.
- HB 1277** — Bottorff (Environmental Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1278** — Whetstone, Reske (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1279** — Whetstone, Grubb (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1280** — Whetstone (Public Policy, Ethics and Veterans Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning gaming.
- HB 1281** — Whetstone (Commerce and Economic Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning commercial Law.
- HB 1282** — Aguilera (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1283** — Aguilera (Elections and Apportionment)  
A BILL FOR AN ACT to amend the Indiana Code concerning elections.
- HB 1284** — Aguilera (Roads and Transportation)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1285** — Goodin (Labor and Employment)  
A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

- HB 1287** — Goodin (Roads and Transportation)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1288** — Goodin (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1289** — Goodin (Labor and Employment)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1290** — Welch, Bosma, Lytle, Espich (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1291** — Hinkle (Commerce and Economic Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.
- HB 1292** — Hinkle (Rules and Legislative Procedures)  
A BILL FOR AN ACT concerning health.
- HB 1293** — Pierce (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.
- HB 1295** — Reske (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.
- HB 1296** — Klinker, Espich, Austin, Scholer (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1297** — Alderman, Klinker (Human Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.
- HB 1298** — Friend, Grubb (Interstate and International Cooperation)  
A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.
- HB 1299** — Friend (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1300** — Bottorff (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1301** — Bottorff (Rules and Legislative Procedures)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.
- HB 1302** — Richardson, Dvorak (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.
- HB 1303** — Stevenson, Bischoff, Budak, Becker (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1304** — Stevenson, Austin, J. Lutz (Commerce and Economic Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1305** — Day (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.
- HB 1306** — Kromkowski (Labor and Employment)  
A BILL FOR AN ACT to amend the Indiana Code concerning pensions.
- HB 1307** — Porter (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.
- HB 1308** — Porter (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1309** — Liggett (Labor and Employment)  
A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.
- HB 1310** — Borrer, Klinker (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1311** — Austin (Insurance, Corporations and Small Business)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1312** — Buck, Thomas (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.
- HB 1313** — Buck, Frizzell (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1314** — Buck, Friend, Lehe (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1315** — Buck (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1316** — Buck (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1317** — Ruppel, Wolkins (Appointments and Claims)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1318** — Becker, C. Brown (Public Health)  
A BILL FOR AN ACT to amend the Indiana Code concerning human services.
- HB 1319** — Van Haaften (Roads and Transportation)  
A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.
- HB 1320** — Hasler (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1321** — Mahern (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1322** — Hoffman (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1323** — Hasler (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1324** — Denbo (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning gaming.
- HB 1325** — Hasler (Technology, Research and Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

**HB 1326** — Dobis, Kuzman (Public Policy, Ethics and Veterans Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages and tobacco.

**HB 1327** — Liggett (Labor and Employment)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1328** — Bottorff (Ways and Means)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1329** — Withdrawn pursuant to House Rule 111.

**HB 1330** — Ayres, L. Lawson, Becker, Kuzman (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

**HB 1331** — Heim (Rules and Legislative Procedures)

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

**HB 1332** — Espich (Ways and Means)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1333** — Espich (Appointments and Claims)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1334** — L. Lawson (Insurance, Corporations and Small Business)

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

**HB 1335** — Kersey (Labor and Employment)

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

**HB 1336** — Dobis (Ways and Means)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1337** — Pelath, Espich, Cochran, McClain (Ways and Means)

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

**HB 1338** — Pelath (Commerce and Economic Development)

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

**HB 1339** — Pelath, Stevenson (Commerce and Economic Development)

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

**HB 1340** — Porter (Education)

A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

**HB 1341** — Ripley (Insurance, Corporations and Small Business)

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

**HB 1342** — Liggett, Scholer (Ways and Means)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

**HB 1343** — Burton (Ways and Means)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1344** — Welch, Hasler, Scholer, Yount (Commerce and Economic Development)

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

**HB 1345** — Buell, Mahern, Richardson, Fry (Appointments and Claims)

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

**HB 1346** — C. Brown (Public Health)

A BILL FOR AN ACT to amend the Indiana Code concerning health.

**HB 1347** — Harris (Ways and Means)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1348** — Withdrawn pursuant to House Rule 111.

**HB 1349** — Chowning (Appointments and Claims)

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

**HB 1350** — Aguilera (Public Health)

A BILL FOR AN ACT to amend the Indiana Code concerning health.

**HB 1351** — Withdrawn pursuant to House Rule 111.

**HB 1352** — Hasler (Local Government)

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

**HB 1353** — Orentlicher (Local Government)

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

**HB 1354** — Orentlicher, Kersey (Insurance, Corporations and Small Business)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1355** — Scholer (Labor and Employment)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1356** — Scholer (Education)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

**HB 1357** — Scholer (Education)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

**HB 1364** — Kuzman, Harris (Ways and Means)

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

## INTRODUCTION OF JOINT RESOLUTIONS

The following joint resolutions were read a first time by title and referred to the respective committees:

**HJR 5** — Bauer, Porter (Rules and Legislative Procedures)

A JOINT RESOLUTION proposing an amendment to Article 8 of the Indiana Constitution concerning education finance.

*Be it resolved by the General Assembly of the State of Indiana:*

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the One Hundred Thirteenth General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. ARTICLE 8, SECTION 2 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 2. The ~~Common School~~ **Early Learning Trust** Fund shall consist of the following:

- (1) The Congressional Township fund, and the lands belonging thereto.
- (2) The Surplus Revenue fund.
- (3) The Saline fund and the lands belonging thereto.

(4) The Bank Tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana.

(5) The fund to be derived from the sale of County Seminaries, and the moneys and property heretofore held for such Seminaries; from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue.

(6) All lands and other estate which shall escheat to the State, for want of heirs or kindred entitled to the inheritance.

(7) All lands that have been, or may hereafter be, granted to the State, where no special purpose is expressed in the grant, and the proceeds of the sales thereof; including the proceeds of the sales of the Swamp Lands, granted to the State of Indiana by the act of Congress of the twenty eighth of September, eighteen hundred and fifty, after deducting the expense of selecting and draining the same.

(8) Taxes on the property of corporations, that may be assessed by the General Assembly for ~~common school~~ **Early Learning Trust Fund** purposes.

(9) **All funds that were held in or repayable to the Common School Fund before the establishment of the Early Learning Trust Fund.**

(10) **Such other funds as may be appropriated to the Fund by the General Assembly or received as gifts.**

SECTION 3. ARTICLE 8, SECTION 3 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 3. The principal of the ~~Common School Early Learning Trust Fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of Common Schools; educational programs for children in kindergarten and pre-kindergarten and to no other purpose whatever.~~

SECTION 4. ARTICLE 8, SECTION 4 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 4. The General Assembly shall invest **the Early Learning Trust Fund** in some safe and profitable manner ~~all such portions of the Common School fund, as have not heretofore been entrusted to the several counties; and shall make provision, by law, for the distribution among the several counties; of the principal of and interest thereof; income on the Fund for educational programs for children in kindergarten or pre-kindergarten.~~

SECTION 5. THE FOLLOWING ARE REPEALED: ARTICLE 8, SECTION 5 OF THE CONSTITUTION OF THE STATE OF INDIANA; ARTICLE 8, SECTION 6 OF THE CONSTITUTION OF THE STATE OF INDIANA; ARTICLE 8, SECTION 7 OF THE CONSTITUTION OF THE STATE OF INDIANA.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 3:20 p.m. with the Speaker in the Chair.

Representative Bosma was excused for the rest of the day.

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 14 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## RESOLUTIONS ON FIRST READING

### Senate Concurrent Resolution 14

The Speaker handed down Senate Concurrent Resolution 14, sponsored by Representatives Crawford and Bosma:

A CONCURRENT RESOLUTION to honor the Indianapolis Colts.

*Whereas, The Indianapolis Colts have brought national recognition and pride to the citizens of Indianapolis and to the state of Indiana while enjoying one of the most extraordinary seasons in the team's franchise history;*

*Whereas, Peyton Manning, selected as the National Football League's co-MVP for his regular season play, has dominated the current NFL postseason with overwhelming performances in victories over the Denver Broncos and the Kansas City Chiefs;*

*Whereas, In addition to the incredible exploits of Peyton Manning and his teammates under the brilliant leadership of Head Coach Tony Dungy, the Colts' success this season has been the result of an extraordinary collective effort of every Colts player, coach, and member of administration and staff; and*

*Whereas, The Colts' efforts have led the team to the AFC championship game to be played on Sunday, January 18, 2004, and an opportunity to play in Super Bowl XXXVIII: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly honors the Indianapolis Colts for their superb efforts and wishes them best of luck in the remainder of the playoffs.

SECTION 2. That the Indiana General Assembly urges all Hoosiers to join together and support our Indianapolis Colts.

SECTION 3. That copies of this resolution be transmitted by the Secretary of the Senate to Indianapolis Colts owner Jim Irsay.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1008, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### Chapter 9. Local Option Taxes.

Sec. 1. This chapter does not apply to a township.

Sec. 2. Except as otherwise provided in this chapter, the definitions in IC 36-1-2 apply to this chapter.

Sec. 3. As used in this chapter, "adjusted gross income" has the meaning set forth in IC 6-3-1-3.5(a).

Sec. 4. As used in this chapter, "income tax" means a tax on the adjusted gross income of a taxpayer of the unit.

Sec. 5. As used in this chapter, "nonresident unit income taxpayer", as it relates to a particular unit, means any unit income taxpayer who maintains the taxpayer's principal place of business or employment in that unit on January 1 of a year but does not reside in that unit on January 1 of a year.

Sec. 6. As used in this chapter, "resident unit income taxpayer", as it relates to a particular unit, means any unit income taxpayer who resides in that unit on January 1 of a year.

Sec. 7. As used in this chapter, "unit income taxpayer" as it relates to a particular unit, means any individual:

(1) who resides in that unit on January 1 of a year; or

(2) who maintains the individual's principal place of business or employment in that unit on January 1 of a year.

Sec. 8. (a) The fiscal body of a unit may adopt an ordinance to impose an income tax.

(b) The ordinance must specify:

(1) the rate at which a tax is imposed; and

(2) the use of revenues that are not required to be used as provided in section 12 of this chapter.

(c) The executive of the unit must approve the use of the revenues as described in the ordinance.



Sec. 9. Except as provided in section 10 of this chapter, the ordinance must provide that at least sixty percent (60%) of the revenues from the tax will be used to provide targeted property tax relief to:

- (1) all property taxpayers;
- (2) certain classes of taxpayers;
- (3) certain classes of property; or
- (4) real property or personal property located in specific geographic areas within the unit;

excluding taxpayers that are corporations (as defined in IC 6-3-1-10) or public utility companies (as defined in IC 6-1-1-8-2), to the extent permitted by the Constitution of the State of Indiana.

Sec. 10. The sixty percent (60%) set aside requirement in section 9 of this chapter does not apply if the unit is able to:

- (1) eliminate all property tax levied by:
  - (A) the unit; and
  - (B) all special taxing districts that act in the name of the unit;

other than property tax levies that may not be eliminated because they have been pledged to the payment of bonds, leases, or other obligations of the unit or a special taxing district that acts in the name of the unit; and

- (2) otherwise provide for the payment of all bonds, leases, or other obligations of the unit or a special taxing district that acts in the name of the unit to which property taxes have been pledged;

with revenues from a tax imposed under this chapter.

Sec. 11. If an income tax is imposed under this chapter, the ordinance must provide that the income tax will be paid and collected in the unit in the same manner as the county option income tax is paid and collected in a county under IC 6-3.5-6.

Sec. 12. (a) A fiscal body of a unit that introduces an ordinance under this chapter must immediately provide written notice of the introduction of the ordinance to:

- (1) the fiscal body of the county in which the unit is located; and
- (2) the fiscal body of each municipality located in the county.

(b) An ordinance introduced under this chapter may not be adopted at the same meeting or on the same day as the ordinance was introduced.

Sec. 13. (a) Subject to subsection (c), the maximum rate of an income tax imposed under this chapter by a unit on the adjusted gross income of a unit income taxpayers may not exceed two percent (2%).

(b) Subject to subsection (c), the maximum combined rate of an income tax imposed under this chapter by a unit and the county in which the unit is located on the adjusted gross income of a unit income taxpayer may not exceed two percent (2%).

(c) The combined rates of all income taxes imposed on a unit taxpayer by all units in the county under:

- (1) this chapter;
- (2) IC 6-3.5-1.1-2;
- (3) IC 6-3.5-6-8; and
- (4) IC 6-3.5-7-5;

may not exceed two percent (2%) of the unit income taxpayer's adjusted gross income, excluding any part of the additional combined tax rate for county adjusted gross income taxes, county option income taxes, and county economic development income taxes above one and twenty-five hundredths percent (1.25%) that is authorized under IC 6-3.5-7-5.

(d) The rate of an income tax imposed on nonresident unit income taxpayers by all units imposing an income tax under this chapter is twenty-five hundredths (0.25) of the rate imposed by the unit on its resident unit income taxpayers, rounded to the nearest one hundredth (0.01).

(e) The combined rates of all income taxes imposed on a nonresident unit income taxpayer by all units in the county under:

- (1) this chapter;
- (2) IC 6-3.5-1.1-2;
- (3) IC 6-3.5-6-8; and
- (4) IC 6-3.5-7-5;

may not exceed one-half percent (0.5%) of the nonresident unit income taxpayer's adjusted gross income.

(f) Subject to this section, an ordinance imposing an income tax under this chapter may provide that the income tax may be imposed at a rate of:

- (1) twenty-five hundredths percent (0.25%);
- (2) five tenths percent (0.5%);
- (3) seventy-five hundredths percent (0.75%); or
- (4) one percent (1.0%);

on the adjusted gross income of resident unit income taxpayers.

(g) Subject to this section, an ordinance imposing an income tax under this chapter may provide that the rate at which the income tax is imposed on the adjusted gross income of resident unit income taxpayers increases annually at a rate of twenty-five hundredths percent (0.25%) until the rate reaches one percent (1.0%).

Sec. 14. Two (2) or more units may adopt substantially identical ordinances to jointly impose a tax under this chapter. Ordinances jointly imposing a tax under this section must include a provision for the distribution of revenues among the units acting jointly.

Sec. 15. If a county imposes a tax under this chapter, the ordinance must provide for the distribution of revenues among all units within the county.

Sec. 16. All revenues collected from a tax imposed under this chapter shall be:

- (1) deposited in a special account of the state general fund for the benefit of the unit imposing the tax;
- (2) reported to the unit by the department of state revenue semiannually before December 30 and June 30 of each year; and
- (3) distributed:
  - (A) to the unit on or before the twentieth day of each month; and
  - (B) upon warrants issued by the auditor of state to the treasurer of state ordering those payments made to the unit.

Sec. 17. The authority provided by this chapter is supplemental and in addition to the authority provided to a unit under any other provision of Indiana law.

Sec. 18. The department of local government finance may not require a unit to reduce its property tax levy by the amount of revenue received from a tax imposed under this chapter.

Sec. 19. An ordinance adopted under this chapter imposing an income tax takes effect on January 1 or July 1 immediately following adoption of the ordinance.

Sec. 20. The general assembly covenants with the respective units and the purchasers and owners of bonds, leases, obligations, or any other evidences of indebtedness of a unit payable from a tax imposed under this chapter that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of a tax imposed under this article so long as the principal, interest, or lease rentals due under those bonds, leases, obligations, or other evidences of indebtedness of a unit that are payable from a tax imposed under this chapter remain unpaid.

SECTION 2. [EFFECTIVE UPON PASSAGE] Distributions of revenues from a tax imposed under IC 6-3.5-9, as added by this act, must commence not later than thirty (30) days after the effective date of an ordinance adopted under IC 6-3.5-9.

SECTION 3. [EFFECTIVE UPON PASSAGE] The provisions of this act are severable, in accordance with IC 1-1-1-8.

SECTION 4. An emergency is declared for this act.

(Reference is to HB 1008 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 18, nays 9.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1024, has had the same under consideration and begs leave to report the same back to the House with the

recommendation that said bill do pass.

Committee Vote: yeas 28, nays 0.

CRAWFORD, Chair

Report adopted.

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1055, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, after line 23, begin a new paragraph and insert:

"SECTION 3. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under

Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(20) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal

Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(6) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).**

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(6) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).**

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal

Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(6) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).**

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(4) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).**

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 4. IC 6-3-1-11, AS AMENDED BY P.L.105-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1,

~~2003; 2004.~~

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2003; 2004~~, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2003; 2004~~, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2003; 2004~~, that is effective for any taxable year that began before January 1, ~~2003; 2004~~, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 5. IC 6-3-1-33, AS ADDED BY P.L.105-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 33. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation allowance for 50-percent bonus depreciation property.**

SECTION 6. IC 6-5.5-1-2, AS AMENDED BY P.L.105-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

- (1) Add the following amounts:
  - (A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.
  - (B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.
  - (C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.
  - (D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.
  - (E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.
  - (F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.
  - (G) Add the amount necessary to make the adjusted gross

income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).**

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

~~(E) Subtract~~ The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation.

**(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).**

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment to be made to itself and issues in exchange for the payment:

(A) a so-called bond;

(B) a share;

- (C) a coupon;
- (D) a certificate of membership;
- (E) an agreement;
- (F) a pretended agreement; or
- (G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 7. IC 6-5.5-1-20, AS ADDED BY P.L.105-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 20. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation allowance for 50-percent bonus depreciation property.**

SECTION 8. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] IC 6-3-1-3.5, IC 6-3-1-11, and IC 6-5.5-1-2, all as amended by this act, apply only to taxable years beginning after December 31, 2003.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) A religious institution may file an application under IC 6-1.1-11 before May 11, 2004, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2002 if:

- (1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2002;
- (2) the religious institution acquired the real property in 1999; and
- (3) the real property was exempt from property taxes for property taxes first due and payable in 2001.

(b) If a religious institution files an exemption application under subsection (a):

- (1) the exemption application is subject to review and action by:
  - (A) the county property tax assessment board of appeals; and
  - (B) the department of local government finance; and
- (2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2001.

(c) If an exemption application filed under subsection (a) is approved, the religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for the payment of property taxes first due and payable in 2002 with respect to the exempt property.

(d) Upon receiving a claim for a refund filed under subsection (c), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. No interest is payable on the refund.

(e) This SECTION expires January 1, 2005.

SECTION 10. [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)] (a) This SECTION applies notwithstanding the following:

- IC 6-1.1-3-7.5
- IC 6-1.1-10-10
- IC 6-1.1-10-13
- IC 6-1.1-10-31.1

- IC 6-1.1-11
- IC 6-1.1-12.1-5.4
- 50 IAC 4.2-11
- 50 IAC 4.2-12-1
- 50 IAC 10-3
- 50 IAC 16.

(b) As used in this SECTION, "taxpayer" means a taxpayer in a county containing a consolidated city that filed:

- (1) an original personal property tax return under IC 6-1.1-3 for the March 1, 2001, assessment date using a consolidated return, Form 103-C; and
- (2) before March 1, 2003, a Form 133 petition for correction of an error with respect to the assessed value of the taxpayer's personal property on the March 1, 2001, assessment date.

(c) Before January 1, 2005, a taxpayer may file an amended personal property tax return for the March 1, 2001, assessment date.

(d) A taxpayer that files an amended personal property tax return under subsection (c) is entitled to the following exemptions for the March 1, 2001, assessment date:

- (1) An exemption for an industrial waste control facility under IC 6-1.1-10-9.
- (2) An exemption for an industrial air purification system under IC 6-1.1-10-12.
- (3) An exemption for tangible personal property under IC 6-1.1-10-29, as in effect on March 1, 2001.
- (4) An exemption for tangible personal property under IC 6-1.1-10-29.3.
- (5) An exemption for tangible personal property under IC 6-1.1-10-30.

(e) The amount of an exemption described in subsection (d)(1) or (d)(2) is based on the total cost of the industrial waste control facility or industrial air purification system reported by the taxpayer on a Form 103-P that must be filed with the amended personal property tax return filed under subsection (c).

(f) The total amount of the exemptions described in subsection (d)(3) through (d)(5) is:

- (1) the total cost of the taxpayer's finished goods reported on Schedule B, line 3 of the taxpayer's amended personal property tax return filed under subsection (c); multiplied by
- (2) the ratio reported by the taxpayer on the Form 103-W filed with the taxpayer's amended personal property tax return.

(g) Before January 1, 2005, a taxpayer may file with the county auditor an application for a deduction from assessed valuation for new manufacturing equipment in an economic revitalization area for the March 1, 2001, assessment date. The taxpayer shall include all necessary attachments to the deduction application.

(h) If a taxpayer files an amended personal property tax return under subsection (c) and a deduction application described in subsection (g), the taxpayer is entitled to a credit in the amount of the taxes paid by the taxpayer on the remainder of:

- (1) the assessed value reported on the taxpayer's original personal property tax return for the March 1, 2001, assessment date; minus
- (2) the assessed value reported on the taxpayer's amended personal property tax return for the March 1, 2001, assessment date filed under subsection (c); minus
- (3) the amount of the deduction from assessed valuation claimed by the taxpayer on an application filed under subsection (g).

(I) The county auditor shall reduce the amount of the credit to which a taxpayer is entitled under subsection (h) by the amount of any property tax refunds paid:

- (1) to the taxpayer for personal property taxes based on the March 1, 2001, assessment date; and
- (2) before the date the taxpayer files an amended personal property tax return under subsection (c).

(j) Notwithstanding IC 6-1.1-26, the county auditor shall apply a credit allowed under this SECTION against the taxpayer's property tax liability for property taxes first due and payable in 2004 and in each year thereafter until the credit is exhausted. However, the county auditor may refund the remaining credit

amount at any time before the credit is exhausted.

**(k) A taxpayer is not required to file a separate application for the credit allowed under subsection (h).**

**(l) This SECTION expires January 1, 2007.**

**SECTION 11. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to HB 1055 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 28, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1057, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1074, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

### HOUSE BILLS ON SECOND READING

#### House Bill 1006

Representative Welch called down House Bill 1006 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1006-3)

Mr. Speaker: I move that House Bill 1006 be amended to read as follows:

Page 2, line 24, delete "four hundred eighty" and insert "**five hundred**".

Page 2, line 25, delete "(\$12,480)." and insert "**(\$12,500).**".

Page 2, line 33, delete "four hundred eighty" and insert "**five hundred**".

Page 2, line 34, delete "(\$12,480)." and insert "**(\$12,500).**".

Page 3, line 29, delete "four hundred eighty" and insert "**five hundred**".

Page 3, line 29, delete "(\$12,480)" and insert "**(\$12,500)**".

Page 4, line 33, delete "twenty-four" and insert "**twenty-five**".

Page 4, line 33, delete "nine hundred sixty".

Page 4, line 33, delete "(\$24,960)" and insert "**(\$25,000)**".

Page 5, line 31, delete "four hundred eighty" and insert "**five hundred**".

Page 5, line 32, delete "(\$12,480)" and insert "**(\$12,500)**".

Page 6, line 30, delete "twenty".

Page 6, line 31, delete "(\$18,720)" and insert "**(\$18,700)**".

Page 7, line 15, delete "twenty".

Page 7, line 15, delete "(\$18,720)" and insert "**(\$18,700)**".

Page 8, line 12, delete "twenty".

Page 8, line 13, delete "(\$18,720)" and insert "**(\$18,700)**".

Page 8, line 31, delete "forty".

Page 8, line 31, delete "(\$37,440);" and insert "**(\$37,400);**".

Page 8, line 35, delete "twenty".

Page 8, line 35, delete "(\$49,920);" and insert "**(\$49,900);**".

Page 8, line 39, delete "twenty".

Page 8, line 39, delete "(\$18,720)" and insert "**(\$18,700)**".

Page 8, between lines 40 and 41, begin a new paragraph and insert:  
"SECTION 8. IC 6-1.1-12-19 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. **(a) Except as provided in subsection (b), the deduction from assessed value provided by section 18 of this chapter is first available in the year in which the increase in assessed value resulting from the rehabilitation occurs and shall continue continues for each of the immediately following four (4) years in the sixth (6th) year; the county auditor shall add the amount of the deduction to the assessed value of the real property which the property owner remains the owner of the property as of the assessment date.**

**(b) A property owner may:**

**(1) in a year after the year referred to in subsection (a), obtain a deduction that:**

**(A) would otherwise first apply for the assessment date in 2004 or a later year; and**

**(B) was not made to the assessed value for any year; or**

**(2) obtain a deduction that:**

**(A) would otherwise have first applied for the assessment date in 2003 or an earlier year; and**

**(B) was not made to the assessed value for any year.**

**If the property owner obtains a deduction under this subsection, the deduction applies in the year for which the application is filed and continues for each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date.**

**(c) A general reassessment of real property which occurs within the five (5) year period of the deduction does not affect the amount of the deduction.**

SECTION 9. IC 6-1.1-12-20, AS AMENDED BY P.L.90-2002, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. **(a) A property owner who desires to obtain the deduction provided by section 18 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the rehabilitated property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) or (c), the application must be filed before May 10 of the year in which the addition to assessed value is made.**

**(b) If notice of the addition to assessed value for any year is not given to the property owner before April 10 of that year, the application required by this section subsection (a) may be filed not later than thirty (30) days after the date such a the notice is mailed to the property owner at the address shown on the records of the township assessor.**

**(c) An application for a deduction referred to in section 19(b) of this chapter with respect to an assessment date must be filed before the May 10 that next follows the assessment date.**

**(d) The application required by this section shall contain the following information:**

**(1) A description of the property for which a deduction is claimed in sufficient detail to afford identification.**

**(2) Statements of the ownership of the property.**

**(3) The assessed value of the improvements on the property before rehabilitation.**

**(4) The number of dwelling units on the property.**

**(5) The number of dwelling units rehabilitated.**

**(6) The increase in assessed value resulting from the rehabilitation. and**

**(7) The amount of deduction claimed.**

**(e) A deduction application filed under this section is applicable for:**

**(1) the year in for which the increase in assessed value occurs deduction application is filed; and for**

**(2) each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date;**

without any additional application being filed.

**(f) On verification of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction."**

Page 9, line 12, strike "three" and insert "**five**".

Page 9, line 12, strike "(\$300,000)" and insert "**(\$500,000)**".

Page 9, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 11. IC 6-1.1-12-23, AS AMENDED BY P.L.129-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) **Except as provided in subsection (b),** the deduction from assessed value provided by section 22 of this chapter is first available ~~after the first assessment date following in the year in which the increase in assessed value resulting from the rehabilitation occurs and shall continue continues for the taxes first due and payable in each of the immediately following five (5) four (4) years in the sixth (6th) year;~~ the county auditor shall add the amount of the deduction to the assessed value of the property ~~which the property owner remains the owner of the property as of the assessment date.~~

(b) A property owner may:

(1) in a year after the year referred to in subsection (a), obtain a deduction that:

(A) would otherwise first apply for the assessment date in 2004 or a later year; and

(B) was not made to the assessed value for any year; or

(2) obtain a deduction that:

(A) would otherwise have first applied for the assessment date in 2003 or an earlier year; and

(B) was not made to the assessed value for any year.

If the property owner obtains a deduction under this subsection, the deduction applies in the year for which the application is filed and continues for each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date.

(c) Any general reassessment of real property which occurs within the five (5) year period of the deduction does not affect the amount of the deduction.

SECTION 12. IC 6-1.1-12-24, AS AMENDED BY P.L.90-2002, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) A property owner who desires to obtain the deduction provided by section 22 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) or (c), the application must be filed before May 10 of the year in which the addition to assessed ~~valuation value~~ value is made.

(b) If notice of the addition to assessed ~~valuation value~~ value for any year is not given to the property owner before April 10 of that year, the application required by this section subsection (a) may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) An application for a deduction referred to in section 23(b) of this chapter with respect to an assessment date must be filed before the May 10 that next follows the assessment date.

(d) The application required by this section shall contain the following information:

(1) The name of the property owner.

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements on the property before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation. ~~and~~

(5) The amount of deduction claimed.

~~(d)~~ (e) A deduction application filed under this section is applicable for:

(1) the year in for which the addition to assessed value is made deduction application is filed; and in

(2) each of the immediate immediately following four (4) years in which the property owner remains the property owner as of the assessment date;

without any additional application being filed.

~~(e)~~ (f) On verification of the correctness of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction."

Page 9, line 35, delete "\$74,880" and insert "\$74,900".

Page 9, line 36, delete "\$106,080" and insert "\$106,100".

Page 9, line 38, delete "\$199,680" and insert "199,700".

Page 10, between lines 25 and 26, begin a new paragraph and insert:

"(e) For property taxes first due and payable in 2004, the department of local government finance shall recalculate the tax rate of each political subdivision to account for any changes in assessed valuation that result from the passage of this act. The department of local government finance shall certify the recalculated rates to each county auditor."

Renumber all SECTIONS consecutively.

(Reference is to HB 1006 as printed January 13, 2004.)

WELCH

Motion prevailed.

#### HOUSE MOTION (Amendment 1006-2)

Mr. Speaker: I move that House Bill 1006 be amended to read as follows:

Page 9, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 10. IC 6-1.1-21-5.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.2. (a) The following definitions apply throughout this section:

(1) "Base year" means the most recent calendar year:

(A) in which an individual qualifies and files for the credit under this section; and

(B) that is preceded by a calendar year in which the individual did not qualify or file for the credit under this section.

(2) "Homestead" means an individual's principal place of residence for which the individual receives a homestead credit under IC 6-1.1-20.9.

(3) "Net property tax bill" means the amount of property taxes due and payable by an individual for a particular calendar year after the application of all deductions and credits, except for the credit allowed under this section, as evidenced by the tax statements prepared and mailed under IC 6-1.1-22-8.

(4) "Qualifying individual" means an individual:

(A) who is at least sixty-five (65) years of age on or before December 31 of the calendar year preceding the year in which the credit under this section is claimed; and

(B) whose adjusted gross income (as defined in IC 6-3-1-3.5), either individually or in combination with the adjusted gross income of:

(i) the individual's spouse; or

(ii) any other individual with whom the individual shares ownership of or is purchasing the property under contract as joint tenants or tenants in common;

for the calendar year preceding the year in which the credit is claimed did not exceed twenty-five thousand dollars (\$25,000).

(b) Each year a qualifying individual is entitled to receive a credit against the net property tax bill on the individual's homestead. The amount of the credit to which a qualifying individual is entitled equals the difference between:

(1) the net property tax bill, before the application of the credit under this section, on the individual's homestead for the calendar year for which the credit is being claimed; minus

(2) the net property tax billed to the individual for that homestead for the individual's base year.

(c) An individual who desires to claim the credit provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the individual's homestead is located. The statement must be filed during the twelve (12) months before May 11 of the year before the first year for which the person wishes to obtain the credit under this section. The statement must contain the following information:

(1) The individual's full name and complete address.

(2) A description of the individual's homestead and the number of years that the individual has resided at that homestead.



- (3) Proof of the individual's age.
- (4) The name of any other county and township in which the individual owns or is buying real property.
- (5) The source and exact amount of gross income received during the preceding calendar year by the individual and any of the following, if applicable:
  - (A) The individual's spouse.
  - (B) Any other individual with whom the individual shares ownership of or is purchasing the homestead under contract as joint tenants or tenants in common.
- (6) The record number and page where the contract or memorandum of the contract is recorded, if the individual is buying the homestead on contract.
- (7) Any other information requested by the department of local government finance.
- (d) To substantiate a claim statement, an individual shall submit for inspection by the county auditor a copy of state income tax returns for the preceding calendar year for the following, as applicable:
  - (1) The individual.
  - (2) The individual's spouse.
  - (3) Any other individual with whom the individual shares ownership of or is purchasing the homestead under contract as joint tenants or tenants in common.

If an individual described in this subsection was not required to file a state income tax return, the individual shall state that fact in the claim statement.

(e) The auditor of a county with whom a statement is filed under this section shall immediately prepare and transmit a copy of the statement to the auditor of any other county if the individual who claims the credit owns or is buying real property located in the other county. The county auditor of the other county shall note on the copy of the statement whether the individual has claimed a credit under this section for a homestead located in the other county. The auditor shall then return the copy to the auditor of the first county.

(f) Upon receiving a proper credit statement, the county auditor shall allow the credit equally against each installment of property taxes to which the credit applies. The county auditor shall include the amount of the credit applied against each installment of taxes on the tax statement required under IC 6-1.1-22-8.

(g) After January 31 and before February 15 of each year, each county auditor shall certify to the department of local government finance the number and amounts of the credits allowed under this section for that calendar year. Upon receiving the certifications, the department of local government finance shall determine the total amount of the credits allowed in each county under this section and shall certify the totals to the department of state revenue at the same time the department of local government finance certifies the total county tax levies. The department of state revenue shall distribute to each county from the property tax replacement fund the amount of credits certified for that county by the department of local government finance at the same time and in the same manner as the department of state revenue distributes the county's estimated distribution under section 10 of this chapter. Money is annually appropriated from the property tax replacement fund in an amount necessary to make the distributions.

SECTION 11. IC 6-2.3-2-2, AS ADDED BY P.L.192-2002(ss), SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The receipt of taxable gross receipts from transactions is subject to a tax rate of one and ~~four-tenths~~ **five-tenths** percent (~~1.4%~~) (**1.5%**).

SECTION 12. IC 6-2.3-8-1, AS ADDED BY P.L.192-2002(ss), SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. On or before the fifth day of each month, the total amount of utility receipts tax revenues received by the department in the immediately preceding month shall be deposited as follows:

- (1) **Ninety-four percent (94%)** in the state general fund.
- (2) **Six percent (6%)** in the property tax replacement fund.

SECTION 13. IC 6-3-2-1, AS AMENDED BY P.L.192-2002(ss),

SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

(b) Each taxable year, a tax at the rate of eight and ~~five-tenths~~ **six-tenths** percent (~~8.5%~~) (**8.6%**) of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation.

SECTION 14. IC 6-3-7-3, AS AMENDED BY P.L.192-2002(ss), SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) All revenues derived from collection of the adjusted gross income tax imposed on corporations shall be deposited in the state general fund.

(b) All revenues derived from collection of the adjusted gross income tax imposed on persons shall be deposited as follows:

- (1) ~~Eighty-six~~ **Eighty-five** percent (~~86%~~) (**85%**) in the state general fund.
- (2) ~~Fourteen~~ **Fifteen** percent (~~14%~~) (**15%**) in the property tax replacement fund.

SECTION 15. [EFFECTIVE JULY 1, 2004] (a) IC 6-1.1-21-5.2, as added by this act, applies to credit claims filed after December 31, 2003.

(b) IC 6-1.1-21-5.2, as added by this act, applies to property taxes first due and payable after December 31, 2004.

(c) IC 6-2.3-2-2, as amended by this act, applies to transactions billed after June 30, 2004.

(d) IC 6-3-2-1, as amended by this act, applies to adjusted gross income derived from sources in Indiana after June 30, 2004, as determined in the manner prescribed by the department of state revenue."

Renumber all SECTIONS consecutively.

(Reference is to HB 1006 as printed January 13, 2004.)

FRY

Upon request of Representatives Fry and Liggett, the Speaker ordered the roll of the House to be called. Roll Call 22: yeas 62, nays 31. Motion prevailed.

#### HOUSE MOTION (Amendment 1006-1)

Mr. Speaker: I move that House Bill 1006 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-3-22.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22.1. (a) Except to the extent that it conflicts with a statute, 50 IAC 4.3 (as in effect January 1, 2002) is incorporated by reference into this section.

(b) Tangible personal property within the scope of 50 IAC 4.3 (as in effect January 1, 2002) shall be assessed on the assessment dates in calendar years 2005 and thereafter in conformity with 50 IAC 4.3 (as in effect January 1, 2002).

(c) The publisher of the Indiana Administrative Code may continue to publish 50 IAC 4.3 (as in effect January 1, 2002) in the Indiana Administrative Code.

(d) 50 IAC 4.2 and any other rule to the extent that it conflicts with this section are void.

(e) A reference in 50 IAC 4.3 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

SECTION 2. IC 6-1.1-8-44.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 44.1. (a) Except to the extent that it conflicts with a statute, 50 IAC 5.2 (as in effect January 1, 2002) is incorporated by reference into this section.

(b) Tangible personal property within the scope of 50 IAC 5.2 (as in effect January 1, 2002) shall be assessed on the assessment dates in calendar years 2005 and thereafter in conformity with 50 IAC 5.2 (as in effect January 1, 2002).

(c) The publisher of the Indiana Administrative Code may continue to publish 50 IAC 5.2 (as in effect January 1, 2002) in



the Indiana Administrative Code.

(d) 50 IAC 5.1 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 5.2 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

SECTION 3. IC 6-1.1-10-29, AS AMENDED BY P.L.192-2002(ss), SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29. (a) As used in this section, "manufacturer" or "processor" means a person that performs an operation or continuous series of operations on raw materials, goods, or other personal property to alter the raw materials, goods, or other personal property into a new or changed state or form. The operation may be performed by hand, machinery, or a chemical process directed or controlled by an individual. The terms include a person that:

- (1) dries or prepares grain for storage or delivery; or
- (2) publishes books or other printed materials.

(b) Personal property owned by a manufacturer or processor is exempt from property taxation if the owner is able to show by adequate records that the property

(1) is stored and remains in its original package in an in-state warehouse for the purpose of shipment, without further processing, to an out-of-state destination

(2) is inventory (as defined in IC 6-1.1-3-11) that will be used in an operation or a continuous series of operations to alter the personal property into a new or changed state or form and the resulting personal property will be shipped; or will be incorporated into personal property that will be shipped; to an out-of-state destination; or

(3) consists of books or other printed materials that are stored at an in-state commercial printer's facility for the purpose of shipment, without further processing, to an out-of-state destination.

(c) Personal property that is manufactured in Indiana and that would be exempt under subsection (b)(1); (b), except that it is not stored in its original package, is exempt from property taxation if the owner can establish in accordance with exempt inventory procedures, regulations, and rules of the department of local government finance that:

(1) the property is ready for shipment without additional manufacturing or processing, except for packaging; and

(2) either:

(A) the property will be damaged or have its value impaired if it is stored in its original package; or

(B) the final packaging of finished inventory items is not practical until receipt of a final customer order because fulfillment of the customer order requires the accumulation of a number of distinct finished inventory items into a single shipping package.

(d) A manufacturer or processor that possesses personal property owned by another person may claim an exemption under subsection (b) or (c) if:

- (1) the manufacturer or processor includes the property on the manufacturer's or processor's personal property tax return; and
- (2) the manufacturer or processor is able to show that the owner of the personal property would otherwise have qualified for an exemption under subsection (b)(1); (b)(3); (b) or (c).

SECTION 4. IC 6-1.1-10-29.5, AS AMENDED BY P.L.192-2002(ss), SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29.5. (a) For purposes of determining under sections 29, 29.3, 30(a), and 30(c) of this chapter, the amount and type of personal property that is shipped or transshipped to an out-of-state destination, the term "adequate record" includes a designation on a bill of lading, freight bill, delivery receipt, manifest, packing slip, or an equivalent document, or a final entry in the records of the taxpayer indicating that property is held for shipment to an out-of-state destination. Such a designation for out-of-state shipment is sufficient for purposes of section 29, 29.3, 30(a), or 30(c) of this chapter even though the specific out-of-state destination of the property is not included in the designation and even though the destination of the property is unknown on the assessment date.

(b) For the purpose of substantiating the amount of his the taxpayer's personal property which is exempt from property taxation under section 29, 29.3, 30(a), or 30(c) of this chapter, on the basis that it is being shipped or transshipped to an out-of-state destination, the taxpayer shall maintain records that reflect the specific type and amount of personal property claimed to be exempt so that the taxpayer's taxable personal property may be distinguished from his the taxpayer's exempt personal property. In lieu of specific identification, of the taxpayer's personal property that is shipped or transshipped to an out-of-state destination, the taxpayer may elect to establish the value of his the taxpayer's exempt personal property by utilizing an allocation method whereby the exempt personal property is determined by dividing:

(1) the value of the taxpayer's property shipped from the in-state warehouse to out-of-state destinations during the twelve (12) month period ending with the assessment date; by

(2) the total value of all shipments of the taxpayer's property from the in-state warehouse during the same period of time;

and applying this ratio to the taxpayer's total inventory of personal property that has been placed in the in-state warehouse, that is in the in-state warehouse as of the assessment date, and that meets the other requirements for an exemption under section 29, 29.3, 30(a), or 30(c) of this chapter. If the taxpayer uses the allocation method, he the taxpayer shall keep records which adequately establish the validity of the allocation.

(c) If the taxpayer elects to keep a specific inventory, under subsection (b); he the taxpayer shall maintain additional records which reflect:

(1) an accurate inventory of all personal property stored in an in-state warehouse; i.e., both inventory destined for points outside the state and inventory destined for points within the state;

(2) the date of deposit of the inventory in the in-state warehouse;

(3) the date of withdrawal of the inventory from the in-state warehouse; and

(4) the point of ultimate destination of the shipments, if known.

(d) For the purposes of this section, the term "warehouse" includes a commercial printer's facility.

(e) A taxpayer may use an allocation percentage to claim an exemption under section 29(b)(2) of this chapter for a part of the person's personal property if the taxpayer's business records substantiate that the allocation percentage accurately reflects the part of the personal property that will:

(1) be used in an operation or a continuous series of operations to alter the personal property into a new or changed state or form; and

(2) in its new or changed state or form be:

(A) shipped; or

(B) incorporated into personal property that will be shipped; to an out-of-state destination.

The percentage may include personal property that is sold to another processor or manufacturer if the personal property is incorporated into the personal property of the buyer and that personal property is shipped out of state."

Page 9, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 9. IC 6-1.1-12-41, AS ADDED BY P.L.192-2002(ss), SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 41. (a) This section does not apply to assessment years beginning after December 31, 2005.

(b) As used in this section, "assessed value of inventory" means the assessed value determined after the application of any deductions or adjustments that apply by statute or rule to the assessment of inventory, other than the deduction allowed under subsection (f).

(c) As used in this section, "county income tax council" means a council established by IC 6-3.5-6-2.

(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "inventory" has the meaning set forth in IC 6-1.1-3-11.

(f) An ordinance may be adopted in a county to provide that a deduction applies to the assessed value of inventory located in the county. The deduction is equal to one hundred percent (100%) of the

assessed value of inventory located in the county for the appropriate year of assessment. An ordinance adopted under this subsection must be adopted before January 1 of a calendar year beginning after December 31, 2002. An ordinance adopted under this section in a particular year applies to each subsequent assessment year ending before January 1, 2006. An ordinance adopted under this section may be consolidated with an ordinance adopted under IC 6-3.5-7-25 **(before its repeal)** or IC 6-3.5-7-26 **(before its repeal)**. The consolidation of an ordinance adopted under this section with an ordinance adopted under IC 6-3.5-7-26 **(before its repeal)** does not cause the ordinance adopted under IC 6-3.5-7-26 **(before its repeal)** to expire after December 31, 2005.

(g) An ordinance may not be adopted under subsection (f) after March 30, 2004. However, an ordinance adopted under this section may be amended after March 30, 2004, to consolidate an ordinance adopted under IC 6-3.5-7-26 **(before its repeal)**.

(h) The entity that may adopt the ordinance permitted under subsection (f) is:

- (1) the county income tax council if the county option income tax is in effect on January 1 of the year in which an ordinance under this section is adopted;
- (2) the county fiscal body if the county adjusted gross income tax is in effect on January 1 of the year in which an ordinance under this section is adopted; or
- (3) the county income tax council or the county fiscal body, whichever acts first, for a county not covered by subdivision (1) or (2).

To adopt an ordinance under subsection (f), a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax. The entity that adopts the ordinance shall provide a certified copy of the ordinance to the department of local government finance before February 1.

(i) A taxpayer is not required to file an application to qualify for the deduction permitted under subsection (f).

(j) The department of local government finance shall incorporate the deduction established in this section in the personal property return form to be used each year for filing under IC 6-1.1-3-7 or IC 6-1.1-3-7.5 to permit the taxpayer to enter the deduction on the form. If a taxpayer fails to enter the deduction on the form, the township assessor shall:

- (1) determine the amount of the deduction; and
- (2) within the period established in IC 6-1.1-16-1, issue a notice of assessment to the taxpayer that reflects the application of the deduction to the inventory assessment.

(k) The deduction established in this section must be applied to any inventory assessment made by:

- (1) an assessing official;
- (2) a county property tax board of appeals; or
- (3) the department of local government finance."

Page 9, between lines 38 and 39, begin a new paragraph and insert: "SECTION 6. IC 6-1.1-18.5-9.9, AS ADDED BY P.L.272-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9.9. (a) The department of local government finance shall adjust the maximum property tax rate levied under the statutes listed in section 9.8(a) of this chapter, IC 6-1.1-19-10, or IC 21-2-15-11 in each county for property taxes first due and payable in:

- (1) 2004;
- (2) the year the county first applies the deduction under IC 6-1.1-12-41 **(before its repeal)** if the county first applies that deduction for property taxes first due and payable in 2005 or 2006; and
- (3) 2007 if the county does not apply the deduction under IC 6-1.1-12-41 **(before its repeal)** for any year.

(b) If the county does not apply the deduction under IC 6-1.1-12-41 **(before its repeal)** for property taxes first due and payable in 2004, the department shall compute the adjustment under subsection (a)(1) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if exemptions under IC 6-1.1-10-29(b)(2) did not apply for the 2003 assessment date.

(c) If the county applies the deduction under IC 6-1.1-12-41 **(before its repeal)** for property taxes first due and payable in 2004,

the department shall compute the adjustment under subsection (a)(1) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if:

- (1) exemptions under IC 6-1.1-10-29(b)(2); and
- (2) deductions under IC 6-1.1-12-41 **(before its repeal)**;

did not apply for the 2003 assessment date.

(d) The department shall compute the adjustment under subsection (a)(2) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if deductions under IC 6-1.1-12-41 **(before its repeal)** did not apply for the assessment date of the year that immediately precedes the year for which the adjustment is made.

(e) The department shall compute the adjustment under subsection (a)(3) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if deductions under IC 6-1.1-12-42 **(before its repeal)** did not apply for the 2006 assessment date.

SECTION 7. IC 6-1.1-18.5-13, AS AMENDED BY P.L.1-2004, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

- (1) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.
- (2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence.
- (3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 **(before its repeal)** or IC 6-1.1-12-42 **(before its repeal)** in the particular calendar year, divided by the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 **(before its repeal)** or IC 6-1.1-12-42 **(before its repeal)** in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 **(before its repeal)** or IC 6-1.1-12-42 **(before its repeal)** in the particular calendar year, divided by

the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 (**before its repeal**) or IC 6-1.1-12-42 (**before its repeal**) in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(5) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's poor relief township assistance ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing poor relief township assistance under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's poor relief township assistance ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(7) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(8) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) that operates a county jail that fails to meet:

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet

standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(10) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

SECTION 8. IC 6-1.1-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) There is hereby established a special fund to be known as the "property tax replacement fund".

(b) Except as provided in IC 6-2.3-8-1, all taxes or other moneys deposited in the property tax replacement fund, as provided by law, shall be held and distributed in accordance with the provisions of this chapter and all funds in the property tax replacement fund, remaining after any distribution provided for in this chapter, shall not revert to the general fund of the state but shall constitute a revolving fund for subsequent distribution for the purposes provided for in this chapter. Any amount earned on moneys deposited in the property tax

replacement fund shall remain in and become part of the property tax replacement fund.

SECTION 9. IC 6-1.1-21-2, AS AMENDED BY P.L.1-2004, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5, is to be filed on or before March 1 of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose

property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

- (i) IC 21-2-15 for a capital projects fund; plus
- (ii) IC 6-1.1-19-10 for a racial balance fund; plus
- (iii) IC 20-14-13 for a library capital projects fund; plus
- (iv) IC 20-5-17.5-3 for an art association fund; plus
- (v) IC 21-2-17 for a special education preschool fund; plus
- (vi) IC 21-2-11.6 for a referendum tax levy fund; plus
- (vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus
- (viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any other law; minus

(I) for each township in the county, the lesser of:

- (i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) filed after December 31, 1982; or
- (ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

- (i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and
- (ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is equal to the sum of the following:

(1) Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county **on property other than business personal property and business real property** for its general fund for a stated assessment year.

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property, **excluding business real property**, for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, **excluding business personal property**, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

- (1) held for sale in the ordinary course of a trade or business; or
- (2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means the sum of the following:

(1) Sixty percent (60%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year **on property other than business personal property and business real property**.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property, **excluding business real property**.

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

(o) "**Business real property**" means **real property that is being:**

- (1) **held for sale in the ordinary course of a trade or business; or**
- (2) **held, used, or consumed in connection with the production of income.**

SECTION 10. IC 6-2.3-2-1, AS ADDED BY P.L.192-2002(ss), SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. ~~An income~~ **A franchise** tax, known as the utility receipts tax, is imposed upon the receipt of:

- (1) the entire taxable gross receipts of a taxpayer that is a resident or a domiciliary of Indiana; and
- (2) the taxable gross receipts derived from activities or businesses or any other sources within Indiana by a taxpayer that is not a resident or a domiciliary of Indiana.

SECTION 11. IC 6-2.3-8-1, AS ADDED BY P.L.192-2002(ss), SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) On or before the fifth day of each month, the total amount of utility receipts tax revenues received by the department in the immediately preceding month shall be deposited in the ~~state general~~ **property tax replacement** fund **established by IC 6-1.1-21-1.**

(b) **This subsection applies after December 31, 2004. The department, with the assistance of the department of local government finance, shall determine for each county the quotient of:**

(1) the assessed value of all definite situs property in the county and the indefinite situs property attributable to the county under IC 6-1.1-8 owned by all utilities and subject to property taxes under IC 6-1.1; divided by

(2) the assessed value of all property in the state owned by all utilities and subject to property taxes under IC 6-1.1.

(c) The department shall distribute annually to the treasurer of a county at the same time as a distribution under IC 6-1.1-21 an amount equal to the product of:

(1) the quotient determined under subsection (b) for the county; multiplied by

(2) the total amount deposited in the property tax replacement fund under subsection (a) in the taxable year.

SECTION 12. IC 6-3.1-13-12, AS AMENDED BY P.L.224-2003, SECTION 192, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) The economic development for a growing economy board is established. The board consists of the following seven (7) members:

(1) The director or, upon the director's designation, the executive director of the department of commerce.

(2) The director of the budget agency.

(3) The commissioner of the department of state revenue.

(4) Four (4) members appointed by the governor, not more than two (2) of whom may be members of the same political party.

(b) The director shall serve as chairperson of the board. Four (4) members of the board constitute a quorum to transact and vote on the business of the board.

(c) The department of commerce shall assist the board in carrying out the board's duties under this chapter and IC 6-3.1-26 (**before its repeal**).

SECTION 13. IC 6-3.1-13-26, AS AMENDED BY P.L.224-2003, SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 26. (a) The economic development for a growing economy fund is established to be used exclusively for the purposes of this chapter and IC 6-3.1-26 (**before its repeal**), including paying for the costs of administering this chapter and IC 6-3.1-26 (**before its repeal**). The fund shall be administered by the department of commerce.

(b) The fund consists of collected fees, appropriations from the general assembly, and gifts and grants to the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter. Expenditures from the fund are subject to appropriation by the general assembly and approval by the budget agency.

SECTION 14. IC 6-3.5-7-5, AS AMENDED BY P.L.224-2003, SECTION 254, AND AS AMENDED BY P.L.42-2003, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), and (p), ~~and (r)~~ the county economic development income tax may be imposed at a rate of:

(1) one-tenth percent (0.1%);

(2) two-tenths percent (0.2%);

(3) twenty-five hundredths percent (0.25%);

(4) three-tenths percent (0.3%);

(5) thirty-five hundredths percent (0.35%);

(6) four-tenths percent (0.4%);

(7) forty-five hundredths percent (0.45%); or

(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), or ~~(p)~~, ~~(q)~~, the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g) or (p), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The \_\_\_\_\_ County \_\_\_\_\_ imposes the county economic development income tax on the county taxpayers of \_\_\_\_\_ County. The county economic development income tax is imposed at a rate of \_\_\_\_\_ percent (\_\_\_\_%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection ~~(p)~~, ~~(q)~~, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), **except as provided in subsection (p)**, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), **except as provided in subsection (p)**, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). **Except as provided in subsection (p)**, In addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and



(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), ~~except as provided in subsection (p);~~ the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

~~except as provided in subsection (p);~~ the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), ~~except as provided in subsection (p);~~ the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). ~~Except as provided in subsection (p);~~ In addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

~~(p) In addition:~~

~~(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and~~

~~(2) the:~~

~~(A) county economic development income tax; and~~

~~(B) county option income tax or county adjusted gross income tax;~~

~~may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.~~

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

~~(r) (p) This subsection applies only to a county described in~~

~~section 27 of this chapter. Except as provided in subsection (p); In addition to the rates permitted by subsection (b), the:~~

~~(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and~~

~~(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);~~

~~if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.~~

~~(r) Except as provided in subsection (p); (q) The county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1-3.3.~~

SECTION 15. IC 6-3.5-7-25, AS AMENDED BY P.L.272-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) This section applies only to a county that has adopted an ordinance under IC 6-1.1-12-41(f) **(before its repeal)**.

(b) For purposes of this section, "imposing entity" means the entity that adopted the ordinance under IC 6-1.1-12-41(f) **(before its repeal)**.

(c) The imposing entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). A county income tax council that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. Except as provided in subsection (j), an ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

(1) first applies to the certified distribution described in section 16(c) of this chapter made in the calendar year that immediately succeeds the calendar year in which the ordinance is adopted;

(2) must specify the calendar years to which the ordinance applies; and

(3) must specify that the certified distribution must be used to provide for:

(A) uniformly applied increased homestead credits as provided in subsection (f); or

(B) allocated increased homestead credits as provided in subsection (h).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 26 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

(1) retained by the county auditor under subsection (g); and

(2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the imposing entity shall use the certified distribution described in section 16(c) of this chapter to increase the homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from a county deduction for inventory under IC 6-1.1-12-41 **(before its repeal)**.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(3)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and

(3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(g) The increased percentage of homestead credit determined by the county auditor under subsection (f) applies uniformly in the

county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(3)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and
- (2) an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-41 (**before its repeal**) in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-41 (**before its repeal**) in the county for the immediately preceding year's assessment date.

(i) The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

- (1) as if the money were from property tax collections; and
- (2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

(j) An entity authorized to adopt:

- (1) an ordinance under subsection (c); and
- (2) an ordinance under IC 6-1.1-12-41(f) (**before its repeal**);

may consolidate the two (2) ordinances. The limitation under subsection (c) that an ordinance must be adopted after January 1 of a calendar year does not apply if a consolidated ordinance is adopted under this subsection.

SECTION 16. IC 6-5.5-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) "Taxpayer" means a corporation that is transacting the business of a financial institution in Indiana, including any of the following:

- (1) A holding company.
- (2) A regulated financial corporation.
- (3) A subsidiary of a holding company or regulated financial corporation.
- (4) Any other corporation organized under the laws of the United States, this state, another taxing jurisdiction, or a foreign government that is carrying on the business of a financial institution.

(5) **A pass through entity, including the following:**

(A) **A corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2).**

(B) **A partnership (as defined in section 19 of this chapter).**

(C) **A trust.**

(D) **A limited liability company.**

(E) **A limited liability partnership.**

(b) As used in this section, "holding company" means a corporation registered under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 through 1849), as in effect on December 31, 1990, or registered as a savings and loan holding company other than a diversified savings and loan holding company (as defined in Section 10(a)(F) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1467a(1)(F)), as in effect on December 31, 1990).

(c) As used in this section, "regulated financial corporation" means:

- (1) an institution, the deposits, shares, or accounts of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 through 1833e), as in effect on December 31, 1990;
- (2) an institution that is a member of a Federal Home Loan Bank;
- (3) any other bank or thrift institution incorporated or organized under the laws of a state that is engaged in the business of receiving deposits;
- (4) a credit union incorporated and organized under the laws of this state;

(5) a production credit association organized under 12 U.S.C. 2071, as in effect on December 31, 1990;

(6) a corporation organized under 12 U.S.C. 611 through 631 (an Edge Act corporation), as in effect on December 31, 1990;

(7) a federal or state agency or branch of a foreign bank (as defined in 12 U.S.C. 3101, as in effect on December 31, 1990); or

(8) a trust company formed under IC 28-12.

(d) For purposes of this section and when used in this article, "business of a financial institution" means the following:

(1) For a holding company, a regulated financial corporation, or a subsidiary of either, the activities that each is authorized to perform under federal or state law, including the activities authorized by regulation or order of the Federal Reserve Board for such a subsidiary under Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)), as in effect on December 31, 1990.

(2) For any other corporation described in subsection (a)(4), all of the corporation's business activities if eighty percent (80%) or more of the corporation's gross income, excluding extraordinary income, is derived from one (1) or more of the following activities:

(A) Making, acquiring, selling, or servicing loans or extensions of credit. For the purpose of this subdivision, loans and extensions of credit include:

- (i) secured or unsecured consumer loans;
- (ii) installment obligations;
- (iii) mortgage or other secured loans on real estate or tangible personal property;
- (iv) credit card loans;
- (v) secured and unsecured commercial loans of any type;
- (vi) letters of credit and acceptance of drafts;
- (vii) loans arising in factoring; and
- (viii) any other transactions with a comparable economic effect.

(B) Leasing or acting as an agent, a broker, or an advisor in connection with leasing real and personal property that is the economic equivalent of the extension of credit if the transaction is not treated as a lease for federal income tax purposes.

(C) Operating a credit card, debit card, charge card, or similar business.

As used in this subdivision, "gross income" includes income from interest, fees, penalties, a market discount or other type of discount, rental income, the gain on a sale of intangible or other property evidencing a loan or extension of credit, and dividends or other income received as a means of furthering the activities set out in this subdivision.

SECTION 17. IC 27-1-18-2, AS AMENDED BY P.L.144-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Every insurance company not organized under the laws of this state, and each domestic company electing to be taxed under this section, and doing business within this state shall, on or before March 1 of each year, report to the department, under the oath of the president and secretary, the gross amount of all premiums received by it on policies of insurance covering risks within this state, or in the case of marine or transportation risks, on policies made, written, or renewed within this state during the twelve (12) month period ending on December 31 of the preceding calendar year. From the amount of gross premiums described in this subsection shall be deducted:

- (1) considerations received for reinsurance of risks within this state from companies authorized to transact an insurance business in this state;
- (2) the amount of dividends paid or credited to resident insureds, or used to reduce current premiums of resident insureds;
- (3) the amount of premiums actually returned to residents on account of applications not accepted or on account of policies not delivered; and
- (4) the amount of unearned premiums returned on account of the cancellation of policies covering risks within the state.

(b) A domestic company shall be taxed under this section only in



each calendar year with respect to which it files a notice of election. The notice of election shall be filed with the insurance commissioner and the commissioner of the department of state revenue on or before November 30 in each year and shall state that the domestic company elects to submit to the tax imposed by this section with respect to the calendar year commencing January 1 next following the filing of the notice. The exemption from license fees, privilege, or other taxes accorded by this section to insurance companies not organized under the laws of this state and doing business within this state which are taxed under this chapter shall be applicable to each domestic company in each calendar year with respect to which it is taxed under this section. In each calendar year with respect to which a domestic company has not elected to be taxed under this section it shall be taxed without regard to this section.

(c) For the privilege of doing business in this state, every insurance company required to file the report provided in this section shall pay into the treasury of this state an amount equal to the excess, if any, of the gross premiums over the allowable deductions, multiplied by the following rate for the year that the report covers:

- (1) For 2000, two percent (2%).
- (2) For 2001, one and nine-tenths percent (1.9%).
- (3) For 2002, one and eight-tenths percent (1.8%).
- (4) For 2003, one and seven-tenths percent (1.7%).
- (5) For 2004, one and five-tenths percent (1.5%).
- (6) For 2005 and thereafter, ~~one and three-tenths~~ **two percent (1.3%)**.

(d) Payments of the tax imposed by this section shall be made on a quarterly estimated basis. The amounts of the quarterly installments shall be computed on the basis of the total estimated tax liability for the current calendar year and the installments shall be due and payable on or before April 15, June 15, September 15, and December 15, of the current calendar year.

(e) Any balance due shall be paid in the next succeeding calendar year at the time designated for the filing of the annual report with the department.

(f) Any overpayment of the estimated tax during the preceding calendar year shall be allowed as a credit against the liability for the first installment of the current calendar year.

(g) In the event a company subject to taxation under this section fails to make any quarterly payment in an amount equal to at least:

- (1) twenty-five percent (25%) of the total tax paid during the preceding calendar year; or
- (2) twenty per cent (20%) of the actual tax for the current calendar year;

the company shall be liable, in addition to the amount due, for interest in the amount of one percent (1%) of the amount due and unpaid for each month or part of a month that the amount due, together with interest, remains unpaid. This interest penalty shall be exclusive of and in addition to any other fee, assessment, or charge made by the department.

(h) The taxes under this article shall be in lieu of all license fees or privilege or other tax levied or assessed by this state or by any municipality, county, or other political subdivision of this state. No municipality, county, or other political subdivision of this state shall impose any license fee or privilege or other tax upon any insurance company or any of its agents for the privilege of doing an insurance business therein, except the tax authorized by IC 22-12-6-5. However, the taxes authorized under IC 22-12-6-5 shall be credited against the taxes provided under this chapter. This section shall not be construed to prohibit the levy and collection of state, county, or municipal taxes upon real and tangible personal property of such company, or to prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by law. However, all insurance companies, foreign or domestic, paying taxes in this state predicated in part on their premium income from policies sold and premiums received in Indiana, shall have the same rights and privileges from further taxation and shall be given the same credits wherever applicable, as those set out for those companies paying only a tax on premiums as set out in this section.

(i) Any insurance company failing or refusing, for more than thirty (30) days, to render an accurate account of its premium receipts as provided in this section and pay the tax due thereon shall be subject to a penalty of one hundred dollars (\$100) for each additional day such report and payment shall be delayed, not to exceed a maximum

penalty of ten thousand dollars (\$10,000). The penalty may be ordered by the commissioner after a hearing under IC 4-21.5-3. The commissioner may revoke all authority of such defaulting company to do business within this state, or suspend such authority during the period of such default, in the discretion of the commissioner.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 6-1.1-10.1; IC 6-1.1-12-42; IC 6-3.1-24; IC 6-3.1-26; IC 6-3.5-7-26.

SECTION 19. P.L.120-2003, SECTION 2, IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2005]: IC 6-1.1-3-22; IC 6-1.1-3-23; IC 6-1.1-8-44; IC 6-1.1-10-43; IC 6-1.1-12-41; IC 6-3.1-4.

SECTION 21. IC 6-3.5-7-25 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 22. [EFFECTIVE JANUARY 1, 2005] (a) **This SECTION applies to a county that adopts an ordinance under IC 6-1.1-12-41(f) (before its repeal) that provides for an additional county economic development income tax rate under IC 6-3.5-7-5(p) (before its amendment by this act) and that uses the additional revenue to increase the homestead credit as described in IC 6-3.5-7-25(e) (before its repeal).**

(b) Notwithstanding the repeal of IC 6-3.5-7-25(e), the county shall distribute any tax revenue generated by the additional county economic development income tax rate under IC 6-3.5-7-5(p) (before its amendment by this act) that the county has not previously distributed as follows:

- (1) First, to replace revenue lost as a result of the additional homestead credit granted under IC 6-3.5-7-25.
- (2) Second, as a certified distribution to the civil taxing units in the county.

SECTION 23. [EFFECTIVE JULY 1, 2004] Notwithstanding their repeal by P.L.192-2002(ss), the taxes imposed by the following statutes are reinstated for taxable years beginning after December 31, 2004, and must be administered under the provisions of those statutes as they existed before their repeal:

- (1) IC 6-2.1 (gross income tax).
- (2) IC 6-3-8 (supplemental net income tax).

SECTION 24. [EFFECTIVE JULY 1, 2004] (a) The legislative services agency, under the direction of the code revision commission, shall prepare legislation for introduction in the 2005 session of the general assembly to make conforming changes to statutes, as needed, to reconcile the statutes with this act. The statutes may include:

- (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax).
- (2) IC 6-2.3 (utility receipts tax).

(b) This SECTION expires June 30, 2006.

SECTION 25. [EFFECTIVE JULY 1, 2004] The following statutes, as amended by this act, apply to taxable years beginning after December 31, 2004:

- (1) IC 6-2.3-8-1.
- (2) IC 6-5.5-1-17.

SECTION 26. [EFFECTIVE JULY 1, 2004] The following statutes, as added by this act, apply to taxable years beginning after December 31, 2004, and property taxes first due and payable after December 31, 2005:

- (1) IC 6-1.1-3-22.1.
- (2) IC 6-1.1-8-44.1.

SECTION 27. [EFFECTIVE JULY 1, 2004] The following statutes as amended by this act, apply to taxable years beginning after December 31, 2004, and property taxes first due and payable after December 31, 2005:

- (1) IC 6-1.1-10-29.
- (2) IC 6-1.1-10-29.5.
- (3) IC 6-1.1-21-2.
- (4) IC 6-3.5-7-5."

Renumber all SECTIONS consecutively.

(Reference is to HB 1006 as printed January 13, 2004.)

FRY

Upon request of Representatives Fry and Liggett, the Speaker ordered the roll of the House to be called. Roll Call 23: yeas 4, nays 87. Motion failed. The bill was ordered engrossed.

## House Bill 1005

Representative Reske called down House Bill 1005 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1005-4)

Mr. Speaker: I move that House Bill 1005 be amended to read as follows:

Page 1, line 7, delete "and".

Page 1, delete lines 8 through 12, begin a new line block indented and insert:

**"(2) closing agent" means a person that closes a transaction, other than an individual or an attorney;**

**(3) "customer" means an individual who obtains a loan in a transaction; and**

**(4) "transaction" means a single family residential:**

**(A) first lien purchase money mortgage transaction; or**

**(B) refinancing transaction."**

Page 1, line 13, delete "residential real property financing or" and insert **"transaction"**.

Page 1, line 14, delete "refinancing".

Page 1, line 14, delete "financial institution" and insert **"closing agent"**.

Page 1, line 17, delete "financial" and insert **"closing agents"**.

Page 2, line 1, delete "institutions".

Page 2, line 2, delete "financial institutions," and insert **"closing agents,"**.

Page 2, line 21, delete "financial institution:" and insert **"closing agent:"**.

Page 2, line 22, delete "and".

Page 2, line 24, delete "finance." and insert **"finance; and**

**(3) is not responsible for the content of the form referred to in subsection (c), and shall be held harmless by the department of local government finance from any liability for the content of the form."**

Page 2, line 25, delete "financial institution" and insert **"closing agent"**.

Page 2, line 27, delete "residential real property financing or refinancing".

Page 2, line 29, delete "financial institution" and insert **"closing agent"**.

Page 2, line 29, delete "fifty" and insert **"twenty-five"**.

Page 2, line 30, delete "\$50" and insert **"(\$25)"**.

Page 2, line 30, delete "financial institution" and insert **"closing agent"**.

Page 2, line 34, delete "financial institution" and insert **"closing agent"**.

Page 2, line 39, delete "financial institution" and insert **"closing agent"**.

Page 2, line 40, delete "financial institution" and insert **"closing agent"**.

Page 4, delete lines 29 through 32, begin a new line block indented and insert:

**"subdivision must identify:**

**(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and**

**(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year."**

Page 5, delete lines 13 through 14, begin a new paragraph and insert:

**"(g) A county that incurs:**

**(1) initial computer programming costs directly related to implementation of the requirements of subsection (e); or**

**(2) printing costs directly related to mailing information under subsection (e);"**

(Reference is to HB 1005 as printed January 13, 2004.)

RESKE

Motion prevailed.

HOUSE MOTION  
(Amendment 1005-6)

Mr. Speaker: I move that House Bill 1005 be amended to read as follows:

Page 4, line 3, after "this subsection." insert **"The legislative body of a county not designated for participation in the pilot program may adopt an ordinance to implement the requirements of subsection (e). The legislative body shall submit a copy of the ordinance to the department of local government finance, which shall monitor the county's implementation of the requirements of subsection (e) as if the county were a participant in the pilot program."**

Page 4, delete lines 4 through 5, begin a new line block indented and insert:

**"(1) only in:**

**(A) a county designated under this subsection; or**

**(B) a county adopting an ordinance under this subsection;**

**for property taxes first due and payable after December 31, 2004, and before January 1, 2006; and"**

(Reference is to HB 1005 as printed January 13, 2004.)

TURNER

Motion prevailed. The bill was ordered engrossed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Reassignments and Recommitals

The Speaker announced that:

House Bill 1014 had been reassigned from the Committee on Education to the Committee on Public Health and

House Bill 1156 had been reassigned from the Committee on Technology, Research and Development to the Committee on Ways and Means.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, January 20, 2004 at 1:30 p.m.

VAN HAAFTEN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative T. Adams be added as coauthor of House Bill 1004.

PFLUM

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Thompson and Ayres be added as coauthors of House Bill 1009.

CHENEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Becker be added as coauthor of House Bill 1021.

C. BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Mays be added as coauthor of House Bill 1029.

KUZMAN

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Orentlicher, Noe, and Avery be added as coauthors of House Bill 1055.

MAYS

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Becker, L. Lawson, and Scholer be added as coauthor of House Bill 1056.

MAYS

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Burton and Aguilera be added as coauthors of House Bill 1074.

GRUBB

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Becker, L. Lawson, and Scholer be added as coauthors of House Bill 1081.

MAYS

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Klinker and Cochran be added as coauthors of House Bill 1090.

BUELL

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Foley and Day be added as coauthors of House Bill 1096.

PIERCE

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Hasler be added as coauthor of House Bill 1134.

CHENEY

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Koch be added as coauthor of House Bill 1136.

CHOWNING

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Pierce, Thomas, and Austin be added as coauthors of House Bill 1156.

HASLER

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Kuzman, Koch, and Klinker be added as coauthors of House Bill 1178.

AVERY

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Austin be added as coauthor of House Bill 1188.

RESKE

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Pond be added as coauthor of House Bill 1200.

L. LAWSON

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Lehe, Behning, and Mays be added as coauthors of House Bill 1209.

AUSTIN

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Becker be added as coauthor of House Bill 1319.

VAN HAAFTEN

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Crawford and Frizzell be added as coauthors of House Bill 1320.

HASLER

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Kuzman, the House adjourned at 4:15 p.m., this fifteenth day of January, 2004, until Tuesday, January 20, 2004, at 1:30 p.m.

B. PATRICK BAUER

Speaker of the House of Representatives

DIANE MASARIU CARTER

Principal Clerk of the House of Representatives